

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 792

**Introduced by Assembly Member Bonilla
(Coauthor: Assembly Member Huffman)**

February 17, 2011

An act to add Sections 2024.7 and 8613.7 to the Family Code, to add Sections 1366.50 and 1366.51 to the Health and Safety Code, to add Sections 10786 and 10787 to the Insurance Code, to amend Section 2800.2 of the Labor Code, and to add Sections 1342.5 and 2706.5 to the Unemployment Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 792, as amended, Bonilla. Health care coverage: California Health Benefit Exchange.

Existing law, the federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and employers. Existing state law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law imposes specified requirements on health care service plans and health insurers that provide medical and hospital coverage under an employer-sponsored group plan for an employer, employee association, or other entity subject to requirements under COBRA or Cal-COBRA, as defined, and imposes specified requirements on those employers, employee associations, or other entities to notify its current and former employees or members and dependents of continuation coverage and conversion coverage options upon specified events. Existing law regulates the distribution of unemployment compensation or disability benefits by the Employment Development Department. Existing law, under the Family Code, sets forth procedures related to a petition for dissolution of marriage, nullity of marriage, or legal separation, or a petition for adoption.

This bill would require the disclosure of information on health care coverage through the California Health Benefit Exchange, under specified circumstances, by health care service plans, health insurers, employers, employee associations or other entities, the Employment Development Department, upon an initial claim for disability benefits, or, *on and after January 1, 2013*, by the court, upon the filing of a petition for dissolution of marriage, nullity of marriage, legal separation, or adoption.

On and after January 1, 2014, this bill would also require specified health care service plans and health insurers to, upon the failure of an enrollee or insured to renew his or her health coverage, as specified, or upon termination of coverage under an employer-sponsored group plan, and the Employment Development Department with regard to an applicant for unemployment compensation, transfer specified information to the California Health Benefit Exchange for purposes of enrolling those individuals or applicants in the Exchange. The bill would make the automatic enrollment of those individuals in the Exchange subject to the plan or insurer, or employer, employee association, or other entity, obtaining the consent of the individual at the time the individual or employer-sponsored group plan contract or policy is issued, amended, delivered, or renewed, as specified. The bill would make the automatic enrollment of those individuals by the Employment

Development Department subject to the Exchange receiving approval from the United States Department of Health and Human Services to transfer the minimum information necessary to initiate an application for enrollment, as specified, *and provide that enrollment by the department is only operative to the extent that it is funded out of non-General Fund moneys*. The bill would allow an individual who is enrolled in the Exchange under those provisions to opt out of that coverage in writing to the Exchange, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2024.7 is added to the Family Code, to
2 read:

3 2024.7. ~~Upon~~ *On and after January 1, 2013, upon* the filing
4 of a petition for dissolution of marriage, nullity of marriage, or
5 legal separation, the court shall provide to the petitioner and the
6 respondent the following notice:

7
8 “If you do not have affordable health care coverage, effective
9 January 1, 2014, you may obtain health care coverage through the
10 California Health Benefit Exchange. What you pay for coverage
11 through the Exchange will depend on how much you make. If your
12 income is low, you may qualify for no-cost coverage through
13 Medi-Cal. For more information, check www.healthcare.ca.gov
14 or call 1-888-Healthhelp (insert telephone number).”
15

16 SEC. 2. Section 8613.7 is added to the Family Code, to read:

17 8613.7. ~~Upon~~ *On and after January 1, 2013, upon* the filing
18 of a petition for adoption pursuant to this part, the court shall
19 provide to the petitioner the following notice:

1
2 “If you do not have affordable health care coverage, effective
3 January 1, 2014, you may obtain health care coverage through the
4 California Health Benefit Exchange. What you pay for coverage
5 through the Exchange will depend on how much you make. If your
6 income is low, you may qualify for no-cost coverage through
7 Medi-Cal. For more information, check www.healthcare.ca.gov
8 or call 1-888-Healthhelp (insert telephone number).”
9

10 SEC. 3. Section 1366.50 is added to the Health and Safety
11 Code, to read:

12 1366.50. (a) Except for a specialized health care service plan,
13 every health care service plan contract that is issued, amended,
14 delivered, or renewed in this state on or after January 1, 2014, that
15 provides medical and hospital coverage under an
16 employer-sponsored group plan for an employer subject to
17 COBRA, as defined in subdivision (e) of Section 1373.621, or an
18 employer group for which the plan is required to offer Cal-COBRA
19 coverage, as defined in subdivision (f) of Section 1373.621,
20 including a carrier providing replacement coverage under Section
21 1399.63, shall, consistent with this section, transfer information
22 to the Exchange in order to initiate an application for enrollment
23 for a former employee or former dependent of an employee. At
24 the time that the health care service plan contract is issued,
25 amended, delivered, or renewed on or after January 1, 2012, the
26 health care service plan shall obtain the consent of the enrollee to
27 provide the minimum necessary information to the Exchange in
28 the event that the individual or dependent ceases to be enrolled in
29 coverage under an employer-sponsored group plan. If the individual
30 does not provide his or her consent, the health care service plan
31 shall not transfer any information regarding that individual to the
32 Exchange.

33 (b) (1) The health care service plan shall provide to the
34 California Health Benefit Exchange information regarding the
35 former employee and any dependents covered under the group
36 coverage. The information provided shall include the name or
37 names, most recent address, and any other information that is in
38 the possession of the plan and that the Exchange may require in a
39 manner to be prescribed by the Exchange. The information shall

1 be provided in a manner consistent with Section 1411 of the federal
2 Patient Protection and Affordable Care Act (Public Law 111-148).

3 (2) The provision of this information shall initiate an application
4 for enrollment in coverage within the meaning of Section 100503
5 of the Government Code.

6 (c) (1) On and after January 1, 2012, until December 31, 2013,
7 the health care service plan shall provide the following notification
8 to employees, members, former employees, spouses, or former
9 spouses:

10
11 “Please examine your options carefully before declining this
12 coverage. Until January 1, 2014, you should be aware that
13 companies selling individual health insurance to adults who are
14 19 years of age or older typically require a review of your medical
15 history that could result in a higher premium or you could be denied
16 coverage entirely. Effective January 1, 2010, children under 19
17 years of age cannot be denied individual coverage based on medical
18 history, but may pay a higher premium depending on medical
19 history.”

20
21 (2) On and after January 1, 2014, notification provided to
22 employees, members, former employees, dependents, or former
23 dependents shall also include the following notification in 12-point
24 type:

25
26 “Because you are no longer enrolled in coverage provided by
27 your employer or the employer of a family member, an application
28 for health care coverage through the California Health Benefit
29 Exchange has been made for you. You are not required to accept
30 coverage from the Exchange. Your payment for this coverage will
31 be based on your income last year. If you make significantly less
32 or more this year than you made last year, please tell the California
33 Health Benefit Exchange and your charges will be based on your
34 current income. If your income is low, you may qualify for no-cost
35 coverage through Medi-Cal. For more information, check
36 www.healthcare.ca.gov or call 1-888-Healthhelp (insert telephone
37 number).”

38
39 (3) To decline health care coverage from the Exchange pursuant
40 to this section, the individual shall elect to do so by notifying the

1 Exchange in writing within 63 calendar days of the date of
2 termination of group coverage.

3 SEC. 4. Section 1366.51 is added to the Health and Safety
4 Code, to read:

5 1366.51. (a) Except for a specialized health care service plan,
6 every health care service plan contract that is issued, amended,
7 delivered, or renewed in this state on or after January 1, 2014, that
8 provides medical and hospital coverage to an individual shall,
9 consistent with this section, transfer information to the Exchange
10 in order to initiate an application for enrollment for a former
11 employee or former dependent of an employee. At the time that
12 the health care service plan contract is issued, amended, delivered,
13 or renewed on or after January 1, 2012, the health care service
14 plan shall obtain the consent of the enrollee to provide the
15 minimum necessary information to the Exchange in the event that
16 the individual or dependent ceases to be enrolled in individual
17 coverage. If the individual does not provide his or her consent, the
18 health care service plan shall not transfer any information regarding
19 that individual to the Exchange.

20 (b) (1) The health care service plan shall provide to the
21 California Health Benefit Exchange information regarding the
22 former covered individual and any dependents that chose not to
23 renew individual coverage. The information provided shall include
24 the name or names, most recent address, and any other information
25 that is in the possession of the plan and that the Exchange may
26 require in a manner to be prescribed by the Exchange. The
27 information shall be provided in a manner consistent with Section
28 1411 of the federal Patient Protection and Affordable Care Act
29 (Public Law 111-148).

30 (2) The provision of this information shall initiate an application
31 for enrollment in coverage within the meaning of Section 100503
32 of the Government Code.

33 (c) (1) On and after January 1, 2014, the health care service
34 plan shall provide the following notification to individuals,
35 dependents, or former dependents in 12-point type:

36
37 “Because you are no longer enrolled in coverage purchased by
38 you as an individual or as the dependent of a family member, an
39 application for health care coverage through the California Health
40 Benefit Exchange has been made for you. You are not required to

1 accept coverage from the Exchange. Your payment for coverage
2 will be based on your income last year. If you make significantly
3 less or more this year than you made last year, please tell the
4 California Health Benefit Exchange and your charges will be based
5 on your current income. If your income is low, you may qualify
6 for no-cost coverage through Medi-Cal. For more information,
7 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
8 telephone number).”
9

10 (2) To decline health care coverage from the Exchange pursuant
11 to this section, the individual shall elect to do so by notifying the
12 Exchange in writing within 63 calendar days of the date of
13 termination of individual coverage.

14 SEC. 5. Section 10786 is added to the Insurance Code, to read:

15 10786. (a) Every health insurance policy that is issued,
16 amended, delivered, or renewed in this state on or after January
17 1, 2014, that provides medical and hospital coverage under an
18 employer-sponsored group plan for an employer subject to
19 COBRA, as defined in subdivision (e) of Section 10116.5, or an
20 employer group for which the plan is required to offer Cal-COBRA
21 coverage, as defined in subdivision (f) of Section 10116.5,
22 including a carrier providing replacement coverage under Section
23 10128.3, shall, consistent with this section, transfer information
24 to the Exchange in order to initiate an application for enrollment
25 for a former employee or former dependent of an employee. At
26 the time that the health insurance policy is issued, amended,
27 delivered, or renewed on or after January 1, 2012, the health insurer
28 shall obtain the consent of the insured to provide the minimum
29 necessary information to the Exchange in the event that the
30 individual or dependent ceases to be enrolled in coverage under
31 an employer-sponsored group plan. If the individual does not
32 provide his or her consent, the health insurer shall not transfer any
33 information regarding that individual to the Exchange.

34 (b) (1) The health insurer shall provide to the California Health
35 Benefit Exchange information regarding the former employee and
36 any dependents covered under the group coverage. The information
37 provided shall include the name or names, most recent address,
38 and any other information that is in the possession of the insurer
39 and that the Exchange may require in a manner to be prescribed
40 by the Exchange. The information shall be provided in a manner

1 consistent with Section 1411 of the federal Patient Protection and
2 Affordable Care Act (Public Law 111-148).

3 (2) The provision of this information shall initiate an application
4 for enrollment in coverage within the meaning of Section 100503
5 of the Government Code.

6 (c) (1) On and after January 1, 2012, until December 31, 2013,
7 the health insurer shall provide the following notification to
8 employees, members, former employees, spouses, or former
9 spouses:

10
11 “Please examine your options carefully before declining this
12 coverage. Until January 1, 2014, you should be aware that
13 companies selling individual health insurance to adults who are
14 19 years of age or older typically require a review of your medical
15 history that could result in a higher premium or you could be denied
16 coverage entirely. Effective January 1, 2010, children under 19
17 years of age cannot be denied individual coverage based on medical
18 history, but may pay a higher premium depending on medical
19 history.”

20
21 (2) On and after January 1, 2014, the health insurer shall provide
22 the following notification to employees, members, former
23 employees, dependents, or former dependents in 12-point type:

24
25 “Because you are no longer enrolled in coverage provided by
26 your employer or the employer of a family member, an application
27 for health care coverage through the California Health Benefit
28 Exchange has been made for you. You are not required to accept
29 coverage from the Exchange. Your payment for this coverage will
30 be based on your income last year. If you make significantly less
31 or more this year than you made last year, please tell the California
32 Health Benefit Exchange and your charges will be based on your
33 current income. If your income is low, you may qualify for no-cost
34 coverage through Medi-Cal. For more information, check
35 www.healthcare.ca.gov or call 1-888-Healthhelp (insert telephone
36 number).”

37
38 (3) To decline health care coverage from the Exchange pursuant
39 to this section, the individual shall elect to do so by notifying the

1 Exchange in writing within 63 calendar days of the date of
2 termination of group coverage.

3 SEC. 6. Section 10787 is added to the Insurance Code, to read:

4 10787. (a) Every health insurance policy that is issued,
5 amended, delivered, or renewed in this state on or after January
6 1, 2014, that provides medical and hospital coverage to an
7 individual shall, consistent with this section, transfer information
8 to the Exchange in order to initiate an application for enrollment
9 for a former employee or former dependent of an employee. At
10 the time that the health insurance policy is issued, amended,
11 delivered, or renewed on or after January 1, 2012, the health insurer
12 shall obtain the consent of the insured to provide the minimum
13 necessary information to the Exchange in the event that the
14 individual or dependent ceases to be enrolled in individual
15 coverage. If the individual does not provide his or her consent, the
16 health insurer shall not transfer any information regarding that
17 individual to the Exchange.

18 (b) (1) The health insurer shall provide to the California Health
19 Benefit Exchange information regarding the former covered
20 individual and any dependents that chose not to renew individual
21 coverage. The information provided shall include the name or
22 names, most recent address, and any other information that is in
23 the possession of the insurer and that the Exchange may require
24 in a manner to be prescribed by the Exchange. The information
25 shall be provided in a manner consistent with Section 1411 of the
26 federal Patient Protection and Affordable Care Act (Public Law
27 111-148).

28 (2) The provision of this information shall initiate an application
29 for enrollment in coverage within the meaning of Section 100503
30 of the Government Code.

31 (c) (1) On and after January 1, 2014, the health insurer shall
32 provide the following notification to individuals, dependents, or
33 former dependents in 12-point type:

34
35 “Because you are no longer enrolled in coverage purchased by
36 you as an individual or as the dependent of a family member, an
37 application for health care coverage through the California Health
38 Benefit Exchange has been made for you. You are not required to
39 accept coverage from the Exchange. Your payment for coverage
40 will be based on your income last year. If you make significantly

1 less or more this year than you made last year, please tell the
2 California Health Benefit Exchange and your charges will be based
3 on your current income. If your income is low, you may qualify
4 for no-cost coverage through Medi-Cal. For more information,
5 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
6 telephone number).”

7
8 (2) To decline health care coverage from the Exchange pursuant
9 to this section, the individual shall elect to do so by notifying the
10 Exchange in writing within 63 calendar days of the date of
11 termination of individual coverage.

12 SEC. 7. Section 2800.2 of the Labor Code is amended to read:

13 2800.2. (a) Any employer, employee association, or other
14 entity otherwise providing hospital, surgical, or major medical
15 benefits to its employees or members is solely responsible for
16 notification of its employees or members of the conversion
17 coverage made available pursuant to Part 6.1 (commencing with
18 Section 12670) of Division 2 of the Insurance Code or Section
19 1373.6 of the Health and Safety Code. At the time that the health
20 care service plan contract or health insurance policy is issued,
21 amended, delivered, or renewed on or after January 1, 2012, the
22 employer, employee association, or other entity shall obtain the
23 consent of the enrollee or insured to provide the minimum
24 necessary information to the Exchange in the event that the
25 individual or dependent ceases to be enrolled in coverage under
26 this section. If the individual does not provide his or her consent,
27 the employer, employee association, or other entity shall not
28 transfer any information regarding that individual to the Exchange.

29 (1) The employer, employee association, or other entity
30 otherwise providing hospital, surgical, or major medical benefits
31 to its employees or members shall provide to the California Health
32 Benefit Exchange information regarding the former employee and
33 any dependents covered under the group coverage. The information
34 provided shall include the name or names, most recent address,
35 and any other information that is in the possession of the employer,
36 employee association, or other entity and that the Exchange may
37 require in a manner to be prescribed by the Exchange. The
38 information shall be provided in a manner consistent with Section
39 1411 of the federal Patient Protection and Affordable Care Act
40 (Public Law 111-148).

1 (2) The provision of this information shall initiate an application
2 for enrollment in coverage within the meaning of Section 100503
3 of the Government Code.

4 (b) Any employer, employee association, or other entity, whether
5 private or public, that provides hospital, medical, or surgical
6 expense coverage that a former employee may continue under
7 Section 4980B of Title 26 of the United States Code, Section 1161
8 et seq. of Title 29 of the United States Code, or Section 300bb of
9 Title 42 of the United States Code, as added by the Consolidated
10 Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272),
11 and as may be later amended (hereafter "COBRA"), shall, in
12 conjunction with the notification required by COBRA that COBRA
13 continuation coverage will cease and conversion coverage is
14 available, and as a part of the notification required by subdivision
15 (a), also notify the former employee, spouse, or former spouse of
16 the availability of the continuation coverage under Section
17 1373.621 of the Health and Safety Code and Sections 10116.5 and
18 11512.03 of the Insurance Code.

19 (c) (1) On or after July 1, 2006, until January 1, 2012,
20 notification provided to employees, members, former employees,
21 spouses, or former spouses under subdivisions (a) and (b) shall
22 also include the following notification:
23

24 "Please examine your options carefully before declining this
25 coverage. You should be aware that companies selling individual
26 health insurance typically require a review of your medical history
27 that could result in a higher premium or you could be denied
28 coverage entirely."
29

30 (2) On and after January 1, 2012, until December 31, 2013, the
31 employer, employee association, or other entity shall provide the
32 following notification to employees, members, former employees,
33 spouses, or former spouses under subdivisions (a) and (b):
34

35 "Please examine your options carefully before declining this
36 coverage. Until January 1, 2014, you should be aware that
37 companies selling individual health insurance to adults who are
38 19 years of age or older typically require a review of your medical
39 history that could result in a higher premium or you could be denied
40 coverage entirely. Effective January 1, 2010, children under 19

1 years of age cannot be denied individual coverage based on medical
2 history but may pay a higher premium depending on medical
3 history.”

4
5 (3) On and after January 1, 2014, the employer, employee
6 association, or other entity shall provide the following notification
7 to employees, members, former employees, spouses, or former
8 spouses under subdivisions (a) and (b):

9
10 “Because you are no longer enrolled in coverage, an application
11 for health care coverage through the California Health Benefit
12 Exchange has been made for you. You are not required to accept
13 coverage from the Exchange. You will be charged for Exchange
14 coverage based on your income last year. If you make significantly
15 less or more this year than you made last year, please tell the
16 California Health Benefit Exchange and your charges will be based
17 on your current income. If your income is low, you may qualify
18 for no-cost coverage through Medi-Cal. For more information,
19 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
20 telephone number).”

21
22 (d) To decline health care coverage through the Exchange
23 pursuant to this section, the individual shall elect to do so by
24 notifying the Exchange in writing within 63 calendar days of the
25 date of termination of individual coverage.

26 SEC. 8. Section 1342.5 is added to the Unemployment
27 Insurance Code, to read:

28 1342.5. (a) On and after January 1, 2014, when an individual
29 files a new claim for unemployment compensation under this
30 chapter, the department shall do all of the following:

31 (1) (A) Provide to the California Health Benefit Exchange the
32 name, address, and any other identifying information that is in the
33 possession of the department as the Exchange may require in a
34 manner to be prescribed by the Exchange. To maximize the number
35 of individual Californians complying with the requirements of the
36 federal Patient Protection and Affordable Care Act (Public Law
37 111-148) by obtaining coverage consistent with the provisions of
38 federal law, the Exchange shall seek approval from the United
39 States Department of Health and Human Services to transfer the
40 minimum information necessary to initiate an application for

1 enrollment under this section consistent with Section 100503 of
2 the Government Code.

3 (B) The provision of this information shall initiate an application
4 for enrollment in coverage within the meaning of Section 100503
5 of the Government Code.

6 (2) Provide the following notice to the individual:
7

8 “Because you have applied for unemployment compensation,
9 an application for health care coverage through the California
10 Health Benefit Exchange has been made for you. You are not
11 required to accept coverage from the Exchange. You will be
12 charged for Exchange coverage based on your income last year.
13 If you make significantly less or more this year than you made last
14 year, please tell the California Health Benefit Exchange and your
15 charges will be based on your current income. If your income is
16 low, you may qualify for no-cost coverage through Medi-Cal. For
17 more information, check www.healthcare.ca.gov or call
18 1-888-Healthhelp (insert telephone number).”
19

20 (b) To decline health care coverage through the Exchange
21 pursuant to this section, the individual shall elect to do so by
22 notifying the Exchange in writing.

23 (c) *This section shall be implemented consistent with federal*
24 *guidance and shall be operative only to the extent that it is funded*
25 *out of non-General Fund moneys.*

26 SEC. 9. Section 2706.5 is added to the Unemployment
27 Insurance Code, to read:

28 2706.5. (a) When an individual files a new claim for disability
29 benefits under this part, the department shall provide the following
30 notice to the individual:
31

32 “If you do not have affordable health care coverage, effective
33 January 1, 2014, you may obtain health care coverage through the
34 California Health Benefit Exchange. What you pay for coverage
35 through the Exchange will depend on how much you make. If your
36 income is low, you may qualify for no-cost coverage through
37 Medi-Cal. For more information, check www.healthcare.ca.gov
38 or call 1-888-Healthhelp (insert telephone number).”
39

1 (b) This notice shall be provided upon initial application whether
2 or not the individual is eligible for disability benefits.

3 SEC. 10. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.